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Paper No. 36

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OFFICE OF PETITIONS

In re Application of  
Rapaich, Mark  
Application No. 09/217,873  
Filed: December 21, 1998  
Attorney Docket No. 450.221US1

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 3, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed July 1, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on October 2, 2003. A Notice of Abandonment was mailed on March 11, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$950.00 extension of time fee submitted with the petition on May 3, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The file is now being forwarded to Technology Center 2600 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy